

temporary digital copies of works that are incidental to the operation of a device in the course of an authorized use of the work?

- What are the policy justifications for or against an expansion to the archival copy exception in section 117 to cover works other than computer programs, and what specific facts can you provide to support for your view? Would such an expansion of section 117 further or hinder electronic commerce and Internet growth? What problems would such a statutory change address and not address? What problems would such an expansion create?

- What are the policy justifications for or against expressly limiting the archival copy exception in section 117 to cover only those copies that are susceptible to destruction or damage by mechanical or electrical failure? What problems would such a statutory change address and not address? What problems would such a change create?

Marybeth Peters,

Register of Copyrights, United States Copyright Office.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

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OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Notice of Solicitation of Public Interest

AGENCY: Executive Office of the President, Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP).

ACTION: Notice of solicitation of public interest.

SUMMARY: OFPP is developing a new initiative to fundamentally examine the manner by which the Government develops and applies incentives to its contractual vehicles, and is seeking information and advice that would advance this effort.

COMMENTS DUE DATE: Comments and information regarding the proposed initiative must be received on or before December 26, 2000.

FOR FURTHER INFORMATION CONTACT: Comments and information should be sent to Stanley Kaufman, Deputy Associate Administrator, OMB, OFPP, 725 17th Street NW., Washington, DC 20503. He can be reached electronically at skaufman@omb.eop.gov or by phone at 202-395-6810.

SUPPLEMENTARY INFORMATION:

I. Background

Procurement reform initiatives such as the Federal Acquisition Streamlining Act of 1994, the Federal Acquisition Reform Act of 1996, the Information Technology Management Reform Act of 1996, and Performance-Based Service Contracting are significantly changing the way the Government acquires supplies and services, moving from a process-oriented, rules-based, risk avoidance culture to one emphasizing performance outcomes, business judgment, streamlined procedures, and risk management.

The rules-based culture constrained contracting officials' flexibility to serve as business advisors focusing on the overall business arrangements. While the cited acquisition reforms provided contracting officers increased flexibilities in negotiations and communication with contractors, research by the Army and studies by OFPP and industry found that innovative contracting methods are being used insufficiently, and effective incentives exist which are not being considered.

Consideration of incentives typically was limited to the fee portion of contracts to the detriment of other incentives that contractors would find more appropriate and meaningful, such as a consistent revenue flow and the promise of future business. In addition, incentives too often focused on the process of the work to be performed vs. the outcomes, thereby rewarding unnecessary and/or even counterproductive behavior. Furthermore, profit is not an effective incentive for non-profit entities such as universities and research laboratories. As a result, contractors often did not provide their best solutions and Government requirements were not fulfilled in as timely, quality-related, and cost-effective manner as possible.

II. The Project

OFPP is looking to develop a new contracting paradigm that will encourage acquisition officials to develop joint objectives with contractors and effectively incentivize both parties to create "win/win" business arrangements.

In pursuing this project, OFPP would like to pull together any experiences and literature regarding non-fee type incentives. Consultation with the private, non-profit, and public sectors is hereby sought. A review of current policy, regulatory and statutory guidance will be conducted to determine any barriers to achieving the

project's objective and the need for any additional guidance to facilitate compliance.

Accordingly, OFPP is seeking ideas, recommendations, practices, lessons learned, etc. on what works in industry, the non-profit environment, and state and local governments. Such information tailored to specific industries (e.g., manufacturing, services, construction), subsets of industries (e.g., information technology, advisory and assistance services, environmental remediation), types of contractors (e.g., universities, small businesses) and types of endeavors (e.g., research and development) would be welcomed. We also would welcome any studies or literature that analyzes, assesses, or validates these practices, as well as information on relevant training courses and materials.

In examining this information and developing any policy initiative, we will consider approaches that would fundamentally restructure our contractual relationships to accommodate improving our business arrangements, and so would welcome any appropriate recommendations as well as the identification of any impediments (legal, regulatory or policy). OFPP welcomes written comments and materials, and is willing to meet with individual companies, associations, and other organizations to hear their views and recommendations. OFPP is concurrently surveying Federal agencies to ascertain any ongoing innovative practices that could be used in this initiative.

We are also considering a public meeting to facilitate the exchange of information between the Government and general public to explore this issue if sufficient interest exists. Topics could include: developing alternative incentive strategies; providing recommendations; sharing best practices and lessons learned; reviewing existing literature; and identifying barriers and potential benefits and disadvantages for both agencies and contractors. Expressions of interest in such a meeting would be appreciated.

Kenneth J. Oscar,

Acting Deputy Administrator.

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